IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA ANDERSON/GREENWOOD DIVISION

John Lewis Mills,)	C/A No. 8:19-1512-TMC
a/k/a John L. Mills,)	
Plaintiff,)	
)	
v.)	ORDER
)	
Magistrate Judge Bristow Marchant,)	
)	
Defendant.)	
)	

Plaintiff, John Lewis Mills, a/k/a John L. Mills, a pro se state inmate, filed this action pursuant to *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971), alleging that his constitutional rights have been violated by Defendant Magistrate Judge Bristow Marchant. (ECF No. 1). On June 4, 2019, the magistrate judge filed a Report and Recommendation ("Report") recommending that the court summary dismiss this action with prejudice and without issuance and service of process. (ECF No. 14). Further, the magistrate judge recommends that, because this action is frivolous and malicious, the dismissal be deemed a strike under the "three strikes rule" set forth in 28 U.S.C. § 1915(g). *Id.* at 8-10. Plaintiff was advised of his right to file objections to the Report. *Id.* at 11. However, Plaintiff has not filed an objections, and the time to do has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that

there is no clear error on the face of the record in order to accept the recommendation." Diamond

v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72

advisory committee's note). Furthermore, failure to file specific written objections to the Report

results in a party's waiver of the right to appeal the district court's judgment based upon that

recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766

F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).

Having reviewed the Report and, finding no clear error, the court adopts the Report (ECF

No. 14), and thus this case is **DISMISSED** with prejudice. Further, the court agrees with the

magistrate judge that this action is frivolous and malicious and, therefore, this dismissal is deemed

a strike for purpose of the "three strike rule" of 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

s/Timothy M. Cain United States District Judge

June 27, 2019 Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within the time period set

forth under Rules 3 and 4 of the Federal Rules of Appellate Procedure.

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